



Instructions for Form 8867

Paid Preparer's Earned Income Credit Checklist

Future Developments

For the latest information about developments related to Form 8867 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/form8867.

General Instructions

Only paid preparers have to complete this form. If you were paid to complete a tax return for any taxpayer claiming the earned income credit (EIC), submit this form with the return. If you are a signing tax return preparer electronically filing the return, file the form electronically with the return. If you are a signing tax return preparer not electronically filing the return, give the taxpayer the completed form for filing. If you are a nonsigning tax return preparer, give the signing tax return preparer the completed form in electronic or non-electronic format.

Purpose of Form

Paid preparers of federal income tax returns or claims for refund involving the EIC must meet due diligence requirements in determining the taxpayer's eligibility for, and the amount of, the EIC. Failure to do so could result in a \$505 penalty for each failure. See Internal Revenue Code section 6695(g) and Part IV of this form.

Specific Instructions

Part I—All Taxpayers

Line 1

Enter the name and preparer tax identification number (PTIN) of the preparer who determined the taxpayer's eligibility for, or the amount of, the EIC, even if that preparer is not the signing preparer.

Line 2

If the taxpayer was married at the end of the year, he or she usually must file a joint return to take the EIC. However, if the taxpayer and his or her spouse didn't live together for the last 6 months of the year, the taxpayer may be eligible to use head of household filing status. See Pub. 501 for details.

Line 3

For purposes of taking the EIC, a social security number (SSN) issued by the Social Security Administration (SSA) isn't valid if "Not Valid for Employment" is printed on the social security card **and** the number was issued solely to allow the recipient of the SSN to apply for or receive a federally funded benefit. If the social security card specifies "Valid for Work Only With DHS Authorization," the taxpayer can take the EIC as long as the DHS (Department of Homeland Security) authorization is still valid. Any other SSN issued by the SSA is valid for EIC purposes. You may find it useful to look at the social security card.

Line 6

Investment income is the total of the taxpayer's taxable interest income, tax-exempt interest income, ordinary dividends, and

capital gain or loss. However, see *Rule 6* in Pub. 596 to figure investment income if the taxpayer:

- Files Schedule E, Form 4797, or Form 8814,
- Reports income on Form 1040, line 21, from the rental of personal property not used in a trade or business, or
- Has income or loss from a passive activity.

Line 7

If the taxpayer is a qualifying child of another taxpayer, the taxpayer cannot claim the EIC. This is true even if the person for whom the taxpayer is a qualifying child doesn't claim the EIC or meet all of the rules to claim the EIC.

The taxpayer is a qualifying child of another taxpayer (the taxpayer's parent, guardian, foster parent, etc.) if all of the following statements are true.

1. The taxpayer is that person's son, daughter, stepchild, foster child, or a descendant of any of them. Or, the taxpayer is that person's brother, sister, half brother, half sister, stepbrother, stepsister, or a descendant of any of them.
2. The taxpayer was:
 - a. Under age 19 at the end of the year and younger than that person (or that person's spouse, if the person files jointly),
 - b. Under age 24 at the end of the year, a student, and younger than that person (or that person's spouse, if the person files jointly), or
 - c. Permanently and totally disabled, regardless of age.
3. The taxpayer lived with that person in the United States for more than half of the year.
4. The taxpayer is not filing a joint return for the year (or is filing a joint return only to claim a refund of withheld income tax or estimated tax paid).

However, the taxpayer isn't the qualifying child of another taxpayer (and so may qualify to claim the EIC) if the person for whom the taxpayer meets the relationship, age, residency, and joint return tests just described isn't required to file an income tax return and either:

- Doesn't file an income tax return, or
- Files a return only to get a refund of income tax withheld or estimated tax paid.

For examples and more details, see Pub. 596.

Part II—Taxpayers With a Child

Line 8

Enter only the child's first name unless more than one child has the same first name. In that case, enter other identifying information to distinguish between the two children.

Line 9

An **adopted child** is treated as the taxpayer's child by blood. An adopted child is a legally adopted child of the taxpayer, or an individual who is lawfully placed with the taxpayer for legal adoption by the taxpayer.

A **descendant** usually refers to a grandchild or great-grandchild of the taxpayer, or to a child, grandchild, or great-grandchild of the taxpayer's brother, sister, stepbrother, stepsister, half brother, or half sister.

A **foster child** is a child placed with the taxpayer by an authorized placement agency or by judgment, decree, or other order of any court of competent jurisdiction. An authorized placement agency includes:

- A state or local government agency,
- A tax-exempt organization licensed by a state, and
- An Indian tribal government or an organization authorized by an Indian tribal government to place Indian children.

Line 10

Check "Yes" if the child wasn't married at the end of 2015.

In general, check "No" if the child was married at the end of 2015. However, check "Yes" if a married child isn't filing a 2015 joint return (or is filing it only to claim a refund of income tax withheld or estimated tax paid), and either:

- You can claim the child as your dependent, or
- The reason you cannot claim the child as your dependent is that you let the child's other parent claim him or her as a dependent under the special rules for children of divorced or separated parents.

For details and examples, see *Joint Return Test* in *Rule 8* in Pub. 596.

Line 11

Even if the child didn't live with the taxpayer for the required time, check "Yes" if the child was born or died during 2015 and the taxpayer's home was the child's home for more than half the time the child was alive in 2015. Also check "Yes" if the child lived with the taxpayer for over half of the year in one or more homeless shelters in the United States.

Temporary absences may count as time lived at home.

Military personnel on extended active duty outside the United States are considered to be living in the United States during that duty period. Extended active duty means the taxpayer is called or ordered to duty for an indefinite period or for a period of more than 90 days. Once the taxpayer begins serving on extended active duty, the taxpayer is still considered to have been on extended active duty even if he or she doesn't serve more than 90 days.

A kidnapped child may be treated as living with the taxpayer for over half the year if the child lived with the taxpayer for over half the part of the year before the kidnapping. For details, see Pub. 596.

Line 12

Student. To qualify as a student, a child must be, during some part of each of any 5 calendar months during the calendar year:

1. A full-time student at a school that has a regular teaching staff, course of study, and regular student body at the school, or
2. A student taking a full-time, on-farm training course given by a school described in (1), or by a state, county, or local government.

The 5 calendar months don't have to be consecutive.

A full-time student is a student who is enrolled for the number of hours or courses the school considers to be full-time attendance.

A school can be an elementary school, junior or senior high school, college, university, or technical, trade, or mechanical school. However, on-the-job training courses, correspondence schools, and schools offering courses only through the Internet do not count.

Students who work in co-op jobs in private industry as a part of a school's regular course of classroom and practical training are considered full-time students.

More than one child. If you checked "No" on line 9, 10, 11, or 12, but there is more than one child, complete lines 8 through 14 for the other child(ren) (but for no more than three qualifying children). If the taxpayer doesn't have a qualifying child, go to Part III to see if the taxpayer can take the EIC for taxpayers who don't have a qualifying child.

Line 13a

Check "No" if the taxpayer is filing a joint return and the only other person who could check "Yes" on lines 9, 10, 11, and 12 for the child is the taxpayer's spouse.

Line 13c

If you checked "Yes" on line 13a, the child meets the conditions to be a qualifying child of both the taxpayer and at least one other person. However, only one of those persons can treat the child as a qualifying child and take, if otherwise eligible, all of the following tax benefits using that child: the child's dependency exemption, the child tax credit, head of household filing status, the credit for child and dependent care expenses, the exclusion for dependent care benefits, and the EIC. The other person(s) cannot take the EIC for people who don't have a qualifying child. In addition, the other person cannot take any of the six tax benefits just listed unless he or she has a different qualifying child. (There is an exception to this rule if the special rule for divorced or separated parents applies, because the noncustodial parent can claim an exemption and the child tax credit for the child; see *Rule 9* in Pub. 596.)

Tiebreaker rules. To determine which person can treat the child as a qualifying child, the following tiebreaker rules apply.

- If only one of the persons is the child's parent, the child is treated as the qualifying child of the parent.
- If the parents file a joint return together and can claim the child as a qualifying child, the child is treated as the qualifying child of the parents.
- If the parents don't file a joint return together but both parents claim the child as a qualifying child, the IRS will treat the child as the qualifying child of the parent with whom the child lived for the longer period of time during the year. If the child lived with each parent for the same amount of time, the IRS will treat the child as the qualifying child of the parent who had the higher adjusted gross income (AGI) for the year.
- If no parent can claim the child as a qualifying child, the child is treated as the qualifying child of the person who had the highest AGI for the year.
- If a parent can claim the child as a qualifying child but no parent does so claim the child, the child is treated as the qualifying child of the person who had the highest AGI for the year, but only if that person's AGI is higher than the highest AGI of any of the child's parents who can claim the child.

Subject to the rules just described, the taxpayer and the other person(s) may be able to choose which of them treats the child as a qualifying child. If the taxpayer allows another person to treat the child as a qualifying child, check "No" on line 13c. For examples and details, see Pub. 596.

In many cases, the taxpayer should be able to tell you whether his or her AGI is higher than the AGI of the child's parents or other person.

Line 14

See the line 3 instructions for the definition of a valid SSN. If the child doesn't have a valid SSN because he or she was born and died during the year, check "Yes."

Line 15

The taxpayer's **earned income** and **adjusted gross income** (AGI) each must be less than:

- \$47,747 (\$53,267 for married filing jointly) if the taxpayer has three or more qualifying children,
- \$44,454 (\$49,974 for married filing jointly) if the taxpayer has two qualifying children,
- \$39,131 (\$44,651 for married filing jointly) if the taxpayer has one qualifying child, or
- \$14,820 (\$20,330 for married filing jointly) if the taxpayer doesn't have a qualifying child.

Part III—Taxpayers Without a Qualifying Child

Line 16

The taxpayer's home (and, if filing a joint return, his or her spouse's home) must have been in the United States for more than half the year.

United States. This means the 50 states and the District of Columbia. It doesn't include Puerto Rico or U.S. possessions such as Guam.

Homeless shelter. The taxpayer's home can be any location where the taxpayer regularly lives. It doesn't need to be a traditional home. If the taxpayer lived in one or more homeless shelters in the United States for more than half the year, check "Yes."

Military personnel stationed outside of the United States. U.S. military personnel stationed outside the United States on extended active duty are considered to live in the United States during that duty period for purposes of the EIC. Extended active duty means the taxpayer is called or ordered to duty for an indefinite period or for a period of more than 90 days. Once the taxpayer begins serving on extended active duty, the taxpayer is still considered to have been on extended active duty even if he or she doesn't serve more than 90 days.

Line 17

Check "Yes" if the taxpayer (or the taxpayer's spouse if filing a joint return) was born after December 31, 1950, and before January 2, 1991.

However, if either the taxpayer or the taxpayer's spouse died in 2015, see Pub. 596 before you answer.

Line 19

The taxpayer's **earned income** and **adjusted gross income** each must be less than \$14,820 (\$20,330 for married filing jointly) if the taxpayer doesn't have a qualifying child.

Part IV—Due Dilligence Requirements

Line 22

Check "Does not apply" if:

- The taxpayer does not have a qualifying child, or
- The taxpayer's qualifying child is the taxpayer's son or daughter.

Line 23

Check "Does not apply" if the answer to question 13a is "No."

Lines 24 and 25

If a reasonable and well-informed tax return preparer knowledgeable in the law would conclude that any information the taxpayer has given you appears to be incorrect, incomplete, or inconsistent with the taxpayer's eligibility to claim the EIC, you must ask the taxpayer reasonable questions to get information that is correct, consistent, and complete. You must document

the questions you asked and the answers you received. This is how you meet your knowledge requirement.

Line 24. Check "Does not apply" on line 24 if you didn't need to ask any additional questions because the taxpayer didn't give you any information that appeared to be incorrect, inconsistent, or incomplete.

Line 25. There are three separate questions on line 25. They are labeled (a), (b), and (c). If the answer to any of them ((a), (b), or (c)) is "No," check "No."

If the answer to all three is "Does not apply," check "Does not apply."

Otherwise, check "Yes."

Part V—Documents Provided to You

Lines 26 and 27

Keep copies of any documents provided by the taxpayer that you relied on to determine whether any child is a qualifying child. See *Document Retention*, later, for details.

If you didn't rely on any documents, check the appropriate box (m, n, t and/or u on line 26 or k or l on line 27).

Check all the boxes that apply. However, if you check box a, m, or n on line 26, do not check any other box from b to l on line 26. If you check box o, t, or u on line 26, do not check any other box from p to s on line 26. If you check box a, k, or l on line 27, do not check any other box on line 27.

There is no limit to the number of documents you can enter on lines 26l, 26s, or 27j. If you need more space, use a separate sheet of paper.

Document Retention

You must keep the records described in 4a, 4b, 4c, 4d, and 4e in the due diligence checklist near the bottom of page 3 of Form 8867. You must keep those records for 3 years from the latest of the following dates that apply.

- The due date of the tax return (not including extensions).
- The date the return was filed (if you are a signing tax return preparer electronically filing the return).
- The date the return was presented to the taxpayer for signature (if you are a signing tax return preparer not electronically filing the return).
- The date you submitted to the signing tax return preparer the part of the return for which you were responsible (if you are a nonsigning tax return preparer).

These records may be kept on paper or electronically in the manner described in Revenue Procedure 97-22 (or later update). Revenue Procedure 97-22 is on page 9 of Internal Revenue Bulletin 1997-13, which is available at www.irs.gov/pub/irs-irbs/irb97-13.pdf.

Paperwork Reduction Act Notice. We ask for you to obtain the information on this form to carry out the Internal Revenue laws of the United States. You are required to obtain this information.

You are not required to obtain the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by Internal Revenue Code section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Learning about the law or the form	18 min.
Preparing and sending the form	1 hr., 49 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. See the instructions for the tax return with which this form is filed.
